UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,529	11/14/2001	Christopher Andrew Morrison	CM2157	5997

27752 7590 10/03/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
DOUYON, LORNA M	
ART UNIT	**PAPER NUMBER**
1751	5

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/979,529	MORRISON ET AL.	
	Examin r	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Specification

1. The disclosure is objected to because of the following informalities:

a) on page 4, line 3, the copending application citing a reference number should be updated.

b) on page 6, line 20, please update "PCT/US 9703635".

c) on page 26, line 8, please update the UK Patent application number.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 16-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is indefinite because the Markush language in line 6 is improper. The phrase "the group consisting of" should be added after "selected from". See MPEP 2173.05(h)(I). In addition, the phrase "the geometric mean particle diameter" in line 5 lacks antecedent basis in the claim. Please note that line 2 recites "geometric mean particle size". Claims 17, 21, 22, 23 and 26 are also indefinite in the recital of "the geometric mean particle diameter" as in claim 16 above.

Claim 18 is indefinite in the recital of "method for making a detergent composition according to claim 16" because claim 16 refers to "method for making a detergent particle".

Claim 23 is indefinite because it is not consistent with claim 22 to which this claim is dependent upon. In line 1, "detergent composition" should be replaced with "method".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16, 21-23, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Donoghue et al. (EP 0,816,485), hereinafter "Donoghue".

Donoghue teaches a process for mixing a first intermediate particle with a second intermediate particle(see abstract) in a concrete mixer, the first intermediate particle comprising enzymes and brightener (see Example 4 in the Table on page 5), having an average particle size of 1000 microns (equivalent to detergent active particulates) and spray dried powder having an average particle size of 1000 microns (see Example 4 on page 6, lines 23-32). Donoghue teaches the limitations of the instant claims. Hence, Donoghue anticipates the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramachandran et al. (GB 2,120,695), hereinafter "Ramachandran".

Ramachandran teaches a process for manufacturing a fabric softening particulate synthetic organic detergent composition which comprises mixing together a minor proportion of a finely

divided bentonite powder, substantially passing through a No. 200 sieve, which has openings 74 microns across, (see page 1, lines 126-128), and a major proportion of a larger sized detergent composition particles having a size within the range of No's. 8 to 100 sieves, which have openings 2380 microns and 149 microns across, (see page 2, lines 4-6), spraying onto the surfaces of the mixture, while it is in motion, a minor proportion of an aqueous sodium silicate solution, continuing mixing after application of the aqueous sodium silicate solution, and removing agglomerated particulate detergent with bentonite powder held to the surfaces thereof (see claim 17). Other adjuvants such as perfumes, enzymes and bleaches may often be sprayed onto or otherwise mixed with the base beads or spray dried detergent composition (see page 3, lines 111-122). The mixer used is an O'Brien agglomerator or similar agglomerating apparatus (see page 6, lines 96-98). Ramachandran, however, fails to specifically disclose the base beads having a geometric mean particle size from 500-2500 microns.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the geometric mean particle sizes of the base beads of Ramachandran through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch,* 617 F.2d 272, 276, 205 USPQ 215,

219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

8. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes
(703) 872-9310- for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

Lorna M. Douyon
Primary Examiner
Art Unit 1751

September 22, 2003